

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JENNIFER ECKHART,

Plaintiff,

v.

FOX NEWS NETWORK, LLC and ED HENRY,  
in his individual and professional capacities,

Defendants.  
-----X

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:  
: Civil Case No. 1:20-cv-05593 (RA)

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:  
: **THIRD AMENDED**  
: **COMPLAINT**

:  
: **JURY TRIAL DEMAND**  
:

**TRIGGER WARNING:**  
**THIS DOCUMENT CONTAINS HIGHLY GRAPHIC INFORMATION OF A**  
**SEXUAL NATURE, INCLUDING SEXUAL ASSAULT**

Plaintiff, as and for her Third Amended Complaint against Defendants Fox News Network, LLC (“Fox News” or the “Company”) and Ed Henry (together, “Defendants”) alleges as follows:

**PRELIMINARY STATEMENT**

1. In July 2020, after Ms. Eckhart filed her original Complaint in this action – alleging, *inter alia*, that she had been sexually harassed and assaulted, and raped, by Defendant Ed Henry – Fox News attempted to defend itself to the mounting public outcry by claiming that it had no knowledge of sexual misconduct by Mr. Henry prior to June 2020. This was not true.

2. As Fox News was well aware, Mr. Henry had a long history of sexual misconduct involving women, and particularly female employees. And, contrary to Fox News’ claims, far from punishing Mr. Henry for his vile misconduct, Fox News has repeatedly *rewarded* him with a series of promotions that only increased his prominence.

3. In 2016, Mr. Henry was suspended by Fox News for four months after news broke that he had an affair with a Las Vegas stripper. At this time, Fox Business Network anchor Liz Claman told Ms. Eckhart, “*everyone at Fox News knows that [Mr.] Henry is a sex addict. That’s no secret.*”

4. It also was recently reported that Mr. Henry was required to complete a sex addiction rehabilitation program in order to return to work at Fox News. Yet, Fox News took no steps to ensure the safety of its female employees upon his return from suspension notwithstanding the fact that, according to reporting, it was an “open secret” at Fox News that Mr. Henry was a serial harasser who used his power to prey on younger female employees.

5. Moreover, in mid-2016, as multiple media reports revealed that Fox News was the home to many of the serial sexual harassers exposed by the #MeToo movement, an outside law firm was retained to conduct a series of Company-wide investigations into issues of sexual harassment. During the investigations, multiple women came forward to complain that Mr. Henry had engaged in sexually inappropriate conduct towards them. These reports were received by multiple members of Fox News’ senior management.

6. Fox News also received a written complaint that warned against giving Mr. Henry a greater role at the Company and stated that “the prospect of [Mr.] Henry’s greater prominence on Fox [News] was crushing for female colleagues after the network had promised sweeping changes following Ailes’ ouster.”

7. Nevertheless, Fox News looked the other way and failed to protect its female employees from Mr. Henry because he was one of Fox News’ highest-rated anchors, which, of course, translated to successful ratings and revenue for Fox News. Indeed, it has been reported

that Mr. Henry was a “favorite of the network’s senior management,” including current Chief Executive Officer Suzanne Scott.

8. Fox News ignored the many, many red flags, and rewarded Mr. Henry with a series of promotions, culminating in a highly coveted promotion to co-anchor of the three-hour long program, “America’s Newsroom.”

9. As Fox News’ female employees had rightly feared, and Ms. Eckhart was to unfortunately learn, giving Mr. Henry increasing prominence at the Company only emboldened him and encouraged him to escalate his mistreatment of women.

10. As a young woman just starting her journalism career, Ms. Eckhart was especially susceptible to Mr. Henry’s predatory grooming techniques. Mr. Henry repeatedly hounded Ms. Eckart, insisting that she join him for drinks in exchange for the prospect of career advancement. He later sexually assaulted her, physically forcing her to perform oral sex on him at Fox News’ New York headquarters.

11. After sexually assaulting Ms. Eckhart without repercussions, Mr. Henry violently raped Ms. Eckhart in February 2017, after which he sent her threatening messages boasting about the rape and how he physically injured her.

12. Ms. Eckhart is not Mr. Henry’s only victim. Indeed, he has subjected at least more than half a dozen other women, including current Fox News female employees, to sexual misconduct and/or abuse, as described herein.

13. When Ms. Eckhart sought to hold Fox News and Mr. Henry accountable for this violent rape by retaining legal counsel and filing this lawsuit, Fox News only escalated its retaliatory conduct by filing a baseless motion for sanctions against Ms. Eckhart’s counsel. Mr. Henry also doubled down by “victim shaming” Ms. Eckhart, publicly filing what he claimed

were nude and partially nude pictures of her on this court's docket, where they were visible to the world. Upon information and belief, Fox News participated in and acquiesced to this conduct.

14. This depraved and perverted conduct on behalf of Fox News, Mr. Henry and his legal counsel is simply abhorrent, and only served to greatly increase the trauma Ms. Eckhart is experiencing as a result of coming forward so bravely against her abuser and former workplace. Ms. Eckhart looks forward to holding Defendants accountable for their unlawful behavior.

15. Accordingly, Ms. Eckhart brings this action seeking injunctive, declaratory and monetary relief against Defendants in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.* ("Title VII"), federal sex trafficking laws, 18 U.S.C. § 1591, *et seq.*, the New York State Human Rights Law, N.Y. Exec. Law §§ 290, *et seq.* ("NYSHRL"), the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101, *et seq.* ("NYCHRL"), the Gender Motivated Violence Act, N.Y.C. Admin. Code §§ 8-901, *et seq.* ("GMVA") and New York Civil Rights Law, N.Y.C. Admin. Code §§ 52-b, *et seq.* ("CRL § 52").

#### **ADMINISTRATIVE PREREQUISITES**

16. Ms. Eckhart previously filed a Charge with the Equal Employment Opportunity Commission ("EEOC") alleging violations of Title VII. On September 15, 2020, Ms. Eckhart received her Notice of Right to Sue from the EEOC.

17. Any and all other prerequisites to the filing of this suit have been met.

#### **JURISDICTION AND VENUE**

18. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343, as this action asserts violations of Title VII and 18 U.S.C. § 1591, *et seq.*, and therefore raises federal

questions regarding the deprivation of Plaintiff's rights. The Court has supplemental jurisdiction over Plaintiff's related claims arising under state and city law pursuant to 28 U.S.C. § 1367(a).

19. Pursuant to 28 U.S.C. § 1391(b), venue is proper in this Court because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

### **PARTIES**

20. Plaintiff Jennifer Eckhart is a former employee of Fox News and a resident of the State of New York. At all relevant times herein, Ms. Eckhart met the definition of an "employee" under all relevant statutes.

21. Defendant Fox News Network, LLC is a Delaware limited liability company with a principal place of business located in New York, New York. At all relevant times, Fox News was an "employer" within the meaning of all applicable statutes.

22. Defendant Ed Henry, upon information and belief, resides within the State of Maryland and is an aider and abettor under NYSHRL and NYCHRL.

### **FACTUAL ALLEGATIONS**

#### **I. MS. ECKHART JOINS FOX NEWS**

23. On January 2, 2013, Ms. Eckhart began working at Fox News as a Freelance Administrative Assistant to Ms. Claman, who anchors "Countdown to the Closing Bell" on the Fox Business Network.

24. Ms. Eckhart was informed that her job would entail assisting Ms. Claman with creative story ideas, managing Ms. Claman's appearances, making phone calls to book certain on-air guests and assisting with scheduling, as well as other work-related administrative assignments.

25. Instead, Ms. Claman demanded that Ms. Eckhart perform a variety of humiliating tasks including, but not limited to, cleaning and organizing Ms. Claman's shoes, organizing and color-coordinating Ms. Claman's dresses, cleaning Ms. Claman's office and refrigerator, dropping off a purse of hers to get repaired at Louis Vuitton, being asked to zip and unzip Ms. Claman's dresses off and on before and after every single on-air appearance, picking up Ms. Claman's dry-cleaning, getting Ms. Claman lunch and coffee (oftentimes even having to pay with her own money), being subjected to Ms. Claman undressing in front of her inside her office at Fox on numerous occasions (which would lead to her walking around her office in front of Ms. Eckhart in nothing but underwear) and even babysitting Ms. Claman's daughter outside of normal office hours.

26. Ms. Eckhart put her head down and performed these tasks without complaint, yet she was still further belittled and mistreated by Ms. Claman. By way of only one example, after Ms. Eckhart ordered Ms. Claman pizza for lunch one day, Ms. Claman reprimanded her over corporate work email for ordering "the worst pizza [she] ha[s] ever had." When Ms. Eckhart apologized, Ms. Claman responded, over email, "NEVER AGAIN!" This was the first of many abusive emails Ms. Eckhart received during the course of her employment at Fox News.

27. By way of another example, Ms. Eckhart received an email from Ms. Claman reprimanding her for booking a former United States Senator, who she claimed is "hated by [Washington,] D.C." Ms. Claman went on to excoriate Ms. Eckhart (and her team) over email stating, "You need to tell [fill-in anchor] this is not [Stuart] Varney or 'Mornings with Maria' [Bartirromo] where we give people a pass or say things like 'the main stream media ignores blah blah blah.' ['Countdown to the Closing Bell'] is not Trump State TV."

28. On one documented occasion, Ms. Claman called another former producer of hers at Fox Business “a retard” while caught on a hot microphone on set during a commercial break. This is just a few examples of Ms. Claman’s frequent berating and belittling of her production staff in person and over corporate email.

29. On days that Ms. Claman would be absent from her anchor duties, Ms. Eckhart’s production staff would regularly “celebrate” her absence due to not having to withstand Ms. Claman’s incessant verbal, written and emotional abuse. On numerous occasions, Ms. Eckhart’s manager, Brad Hirst would order the production staff lunch as a way of ‘celebrating’ Ms. Claman’s absence, thereby admitting to the toxic abuse to which Ms. Eckhart and her staff would often be subjected under his leadership.

30. In June 2013, Ms. Eckhart received a nominal promotion (without a pay raise) to Production Assistant after receiving a stellar performance evaluation from her former manager, Kevin Burke. Specifically, Mr. Burke praised Ms. Eckhart’s “work ethic, attitude, production skills and ability to work under deadline pressure.”

31. Subsequently, Fox News promoted Ms. Eckhart twice during the course of her tenure, first to Booker and then to Associate Producer.

32. Ms. Eckhart performed a variety of roles during her more than seven years at Fox News including, *inter alia*: (i) producing “Countdown to the Closing Bell;” (ii) writing and producing interview segments for Fox News and Fox Business with headline newsmakers, such as Berkshire Hathaway CEO Warren Buffett, Tesla and SpaceX CEO Elon Musk and Microsoft co-founder Bill Gates; (iii) appearing as a frequent on-air guest on Tom Shillue’s Fox News Radio show, in addition to being a regular on-air personality featured on Fox Nation including Tom Shillue’s “The Quiz Show;” (iv) serving as an on-air personality for a variety of other

shows on Fox News (including “Your World with Neil Cavuto”); (v) producing live broadcasts from the floor of the New York Stock Exchange; (vi) producing CES live from Las Vegas; (vii) producing segments for the World Economic Forum in Davos, Switzerland; and (viii) interviewing celebrities, business leaders and high profile athletes on the red carpet for feature stories that are currently published on Fox News’ and Fox Business’ websites.

33. Throughout her employment, Ms. Eckhart received substantial praise for her outstanding work performance and dedication, often in the face of incredible pressure. By way of example only:

- On August 14, 2014, Ms. Claman wrote to Ms. Eckhart over email, “You are truly the kindest and best.”
- On December 7, 2015, the Senior Vice President of Programming at Fox Business, Thomas Bowman, emailed Ms. Eckhart congratulating her on her stellar on-camera reporting for a package she put together for the Company stating, “You’re wasting your time here [at Fox News]... you should be on TV becoming a star.”
- On December 22, 2015, Mr. Hirst wrote Ms. Eckhart a handwritten letter stating, “Thank you for making [‘Countdown to the Closing Bell’] ‘must see TV!’ I appreciate your hard work and dedication. Congratulations on your promotion.”
- On July 1, 2016, in one of Ms. Eckhart’s employee performance evaluations, Mr. Hirst wrote, “Ms. Eckhart was promoted to researcher/booker and has played a major role in the success of a small, but dedicated team that has grown the ratings of the show over 100% over the course of the last year.”
- On July 1, 2017, in one of Ms. Eckhart’s most glowing performance evaluations, Mr. Hirst wrote, “Ms. Eckhart often handles multiple segments per day, including the crucial A block reporter hit. Ms. Eckhart may be the best news writer on the team, and understands the urgency of adding the most up-to-the-minute detail of every story she writes. Ms. Eckhart is an invaluable part of the ‘Countdown



to the Closing Bell’ team at Fox Business, and has limitless potential.”

- In December 2019, Ms. Claman gave a hand-written, personalized card to Ms. Eckhart, stating, “Thank you for that ‘special something’ you always add to your segments and for being so great! Thanks for all your hard work and for putting up with all the drama we deal with. Xo, Liz.”
- Similarly, on December 12, 2019, Mr. Hirst praised Ms. Eckhart by writing her a note that said, “Thank you for making my life easier each day! May 2020 bring you much joy.”
- Finally, on February 6, 2020, Ms. Eckhart received a congratulatory email from Ms. Claman in which she praised Ms. Eckhart’s producing skills writing, “Highest rated segment was yours on Peloton!! Woo hoo!” Ms. Claman proceeded to forward a copy of the successful overnight ratings, of which Ms. Eckhart contributed to, with Rupert Murdoch, Lachlan Murdoch, Jay Wallace, Lauren Petterson and Suzanne Scott on the email chain.

34. This last email was sent just before Ms. Eckhart complained about a toxic environment, immediately after which she was put on a “Performance Improvement Plan” and eventually terminated.

## **II. MR. HENRY PREYS ON MS. ECKHART**

35. Unfortunately, Ms. Eckhart’s outstanding performance did nothing to protect her from becoming a target of Mr. Henry’s vile sexual misconduct.

36. At some point in 2014, when Ms. Eckhart was only 24 years old, Mr. Henry, who was, at the time, Fox News’ Chief White House Correspondent based out of Washington, D.C., began following her on Twitter.

37. Shortly thereafter, Mr. Henry – who was married at the time – sent Ms. Eckhart a Direct Message (“DM”) on Twitter that said only, “beautiful.”

38. Ms. Eckhart was naturally put off by Mr. Henry's inappropriate message. But, given Mr. Henry's stature at Fox News, and the fact that Ms. Eckhart was, at the time, a 24-year-old recent graduate of journalism school who was just starting her career at Fox News, Ms. Eckhart felt compelled to respond. She made it clear, however, that she was not romantically interested in Mr. Henry by shifting the discussion to work. Specifically, Ms. Eckhart told Mr. Henry that she was a fan of his work and that it would be an honor to meet him one day.

39. Mr. Henry replied by stating that he just so happened to be at Fox News' New York offices that day, and asked that Ms. Eckhart come meet him in one of the green rooms prior to his on-air appearance as the "One Lucky Guy" on Fox News' all-female show "Outnumbered."

40. Ms. Eckhart obliged, but when they met, she shook his hand, kept things strictly professional and in no way gave any indication that she was romantically interested in Mr. Henry. Mr. Henry nevertheless asked Ms. Eckhart if she wanted to have her picture taken with him. Ms. Eckhart agreed, and the two had their picture taken.

41. Later that day, Mr. Henry sent Ms. Eckhart yet another Twitter DM in which he asked her to send him a copy of the picture that the two had taken together. Ms. Eckhart did so, and Mr. Henry gratuitously responded, "You are way more beautiful in person."

42. When Ms. Eckhart failed to reciprocate Mr. Henry's romantic overtures, he persisted, continuing to DM her and asked her to get drinks with him. While Ms. Eckhart was outwardly cordial, Mr. Henry's unrelenting advances made her uncomfortable, so she made up an excuse to get out of meeting him for drinks. Mr. Henry, who was intent on pursuing Ms. Eckhart despite her rejections, wrote to her in an e-mail, "Yep. Hard to get."

43. From that moment on, Ms. Eckhart became a sexual target of Mr. Henry. Twice Ms. Eckhart's age, Mr. Henry continued to send unsolicited inappropriate, flirtatious and, at times, sexually disturbing and graphic text messages to Ms. Eckhart. He also continued to ask her out for drinks. Ms. Eckhart, a young, early-in-career journalist in fear of losing her job, felt pressured and compelled to respond and, to a degree, "play along" with Mr. Henry, an extremely powerful man at both Fox News and the White House.

44. However, Ms. Eckhart repeatedly refused to meet Mr. Henry for drinks. Undeterred, Mr. Henry continued to act inappropriately and continued to try to pressure Ms. Eckhart into having drinks with him. Finally, after several months of being worn down by Mr. Henry's advances, Ms. Eckhart agreed to meet him for one drink.

45. Mr. Henry was in New York City at the time for work staying at the New York Marriott Marquis, one of the hotels where Fox News frequently lodges its traveling employees. The two met at the bar at the hotel for a drink.

46. Far from having any romantic interest in Mr. Henry, Ms. Eckhart brought a list of career-related questions she had compiled on a yellow legal pad for their meeting, hoping that she could learn from Mr. Henry as she was seeking a journalism mentor at Fox News.

47. Ms. Eckhart felt extremely nervous and intimidated during their in-person conversation as she told him about her work as a Production Assistant and asked for his advice on how to further her career. During their discussion, three women approached Mr. Henry and asked to have their picture taken with him. Ms. Eckhart asked Mr. Henry if women approached him asking for pictures regularly, and he responded, "It happens all the time," which further underscored Mr. Henry's influential nature.

48. After the two finished their drinks, Mr. Henry asked Ms. Eckhart to have another drink in his hotel room. Ms. Eckhart did not want to go, but was fearful of the repercussions of refusing a request by one of the most powerful on-air figures at Fox News, her employer.

49. As soon as the two entered his hotel room, Mr. Henry, out of nowhere, began forcefully kissing Ms. Eckhart, shoving his tongue down her throat and ripped off her dress. Ultimately, Ms. Eckhart, fearing that her career would be over if she refused Mr. Henry's sexual advances, felt frozen and trapped, and relented to sexual intercourse with him against her will.

50. After having extremely brief sexual intercourse, Mr. Henry told Ms. Eckhart how beautiful she was, said she belonged in front of the camera, and that she was "wasting her time" as a Production Assistant behind the scenes at Fox News. Instead, Mr. Henry offered to help advance Ms. Eckhart's career, telling her that he could "get her in a room with some really powerful people."

51. The message was clear: Ms. Eckhart would be rewarded for succumbing to Mr. Henry's sexual advances as he would use his powerful position at Fox News to advance her journalism career. Alternatively, if she refused, she risked being punished (*i.e.*, be fired from her job).

52. When she got home that evening, Ms. Eckhart, who was distraught at the prospect of having to sleep with Mr. Henry in order to keep her dream job of working at a national news network, cried herself to sleep. Ms. Eckhart, at the age of 24, remained in fear that if she did not comply, she risked being blackballed in her industry at such an early stage of her journalism career.

### **III. MR. HENRY SEXUALLY ASSAULTS MS. ECKHART**

53. Ms. Eckhart managed to avoid Mr. Henry for a few months, but in September 2015, Mr. Henry was, once again, back in Fox News' New York offices.

54. Mr. Henry sent Ms. Eckhart a message on WhatsApp, an instant messaging application that Mr. Henry had previously told Ms. Eckhart to download and only use when communicating with him. In that message, Mr. Henry demanded that Ms. Eckhart remove her underwear, while at work at Fox News, and put them in an envelope for him. This, of course, was an extremely humiliating and disgusting request. But, in fear knowing that she would face retaliation if she refused to comply, Ms. Eckhart did so. Mr. Henry came to Ms. Eckhart's desk on the 12th floor at Fox Business to retrieve the envelope.

55. Later that day, Mr. Henry demanded that Ms. Eckhart meet him in one of the Guest Offices on the 17th floor of the Fox News building despite Ms. Eckhart informing him that she was extremely busy at work.

56. When Ms. Eckhart arrived at the room, Mr. Henry was on the phone. Ms. Eckhart repeatedly indicated to him that she had to leave because a car was waiting for her outside to take her and Ms. Claman to the New York Stock Exchange for a live broadcast.

57. Rather than letting Ms. Eckhart leave to perform her work duties, Mr. Henry hung up the phone, shut the office door and pinned Ms. Eckhart to the wall inside the Guest Office at Fox News. Mr. Henry began subjecting her to forceful and unwanted kissing. He then quickly unzipped his pants, and physically used his hand to force Ms. Eckhart's head down to his penis. While forcefully moving Ms. Eckhart's head back and forth while grabbing onto her hair, Mr. Henry physically forced her to perform oral sex on him against her will. After Mr. Henry came, Ms. Eckhart immediately ran out of the office in a state of shock, panic and fear.

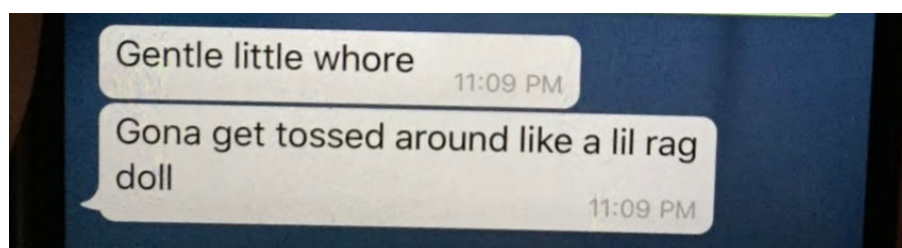
58. Although Ms. Eckhart was able to avoid seeing Mr. Henry after the September 2015 sexual assault on Fox News' property, he continued to send her lewd and extremely graphic pornographic images, videos and gifs.

59. In one email to Ms. Eckhart he wrote, "I'd like to wipe you with my tongue."

#### **IV. MR. HENRY RAPES MS. ECKHART**

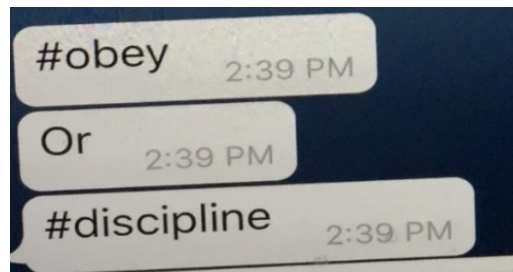
60. In the Fall of 2016, after Mr. Henry returned from his suspension from Fox News (as described *infra*), Mr. Henry sent Ms. Eckhart yet another completely unsolicited message. Mr. Henry sent her a YouTube link to a song entitled "Save a Horse, Ride a Cowboy." Ms. Eckhart, confused, asked Mr. Henry if he was trying to tell her something. He responded, "That I want you to ride ME?" "Yesss" "I am telling you that!!"

61. Mr. Henry's inappropriate and often unsolicited sexual messages to Ms. Eckhart continued, but took a dark and extremely violent turn, as he revealed an apparent obsession with Bondage/Discipline/Dominance/Submission (commonly referred to as BDSM) related sex practices. In early 2017, after demanding that Ms. Eckhart send him a picture of herself in lingerie, Mr. Henry sent the below message to Ms. Eckhart:

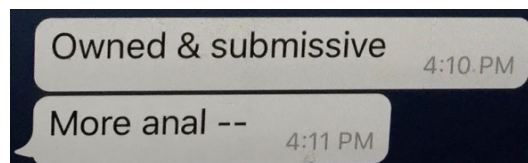


62. Shortly thereafter, Mr. Henry asked Ms. Eckhart to meet him again in person. Out of fear, Ms. Eckhart came up with an excuse by telling Mr. Henry in a text message that she had a date and was very busy. Mr. Henry proceeded to accuse Ms. Eckhart, again, of playing "Hard to get." Ms. Eckhart, fearful that Mr. Henry was unhappy (and in fear that he would retaliate

against her professionally), said that she always makes herself available to him.<sup>1</sup> Mr. Henry responded, “#obey” “[o]r” “#discipline.”



63. In another wildly inappropriate string of text messages, Mr. Henry wrote that “the more impaired [Ms. Eckhart was] the better.” He also wrote that he liked Ms. Eckhart “owned and submissive” and asked her for “[m]ore anal” sex (Ms. Eckhart did not at any time have anal sex with Mr. Henry).



64. In February 2017, Mr. Henry, again, asked Ms. Eckhart to meet him; this time for a drink at Fresco by Scotto, a New York City restaurant and frequent gathering place of Fox News employees. Ms. Eckhart was afraid that if she refused again, Mr. Henry would retaliate – indeed, he explicitly told her that if she did not “obey” him, she would be “disciplined.” Ms. Eckhart knew that the restaurant would be busy, and that she would likely run into other individuals employed by Fox News there, as the restaurant is owned by a local Fox affiliate anchor in New York City. Therefore, she felt safe at that particular facility.

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<sup>1</sup> Not coincidentally, when Ms. Eckhart joined Fox News Anchor Bill Hemmer sent an email to Ms. Eckhart stating, “Jen- you know the drill: get along with everyone, ask lots of questions and **always be available**. Welcome to Fox! Great having you here.” (emphasis added).

65. When Ms. Eckhart met Mr. Henry for a drink, he told her that Fox News was rewarding him with “his very own show.” This, of course, would make Mr. Henry even more powerful at Fox News. Accordingly, Ms. Eckhart was now even more intimidated, particularly since he had sent her a message stating that she had better comply with his demands “or else...” Mr. Henry asked Ms. Eckhart over drinks if she had an agent, offered to introduce her to his agent (one of the most powerful agents in the journalism industry) and told her that he would bring Ms. Eckhart on his future “new show” at Fox News as a frequent on-air guest.

66. After drinks, Mr. Henry invited Ms. Eckhart to take a walk to further discuss her career opportunities at his hotel in midtown Manhattan, where Fox News frequently lodged its visiting employees, which was a short walk from Fresco by Scotto. Ms. Eckhart attempted to avoid being alone with Mr. Henry in his hotel by claiming that she could not go because her high heels were hurting her feet. Mr. Henry ignored her protestations, grabbed her hand and pulled her to his hotel. Out of extreme fear and concern for keeping her job, Ms. Eckhart complied.

67. Ms. Eckhart never could have imagined what would happen next.

68. Instead of discussing Ms. Eckhart’s future career prospects at Fox News, the moment that Mr. Henry and Ms. Eckhart entered his hotel room, Mr. Henry, yet again, forced himself upon Ms. Eckhart, pinning her against a wall, and forcefully ripped off the coat and dress she was wearing.

69. Mr. Henry then immediately forced Ms. Eckhart’s hands behind her back and applied metal handcuffs to Ms. Eckhart’s wrists to restrain her.

70. Ms. Eckhart pleaded with Mr. Henry, telling him that the handcuffs were painful and hurting her wrists. Mr. Henry did not stop or remove the handcuffs. Instead, he threw Ms. Eckhart onto the hotel bed naked, helpless and handcuffed. Mr. Henry bragged to Ms. Eckhart



that they were “real, authentic metal handcuffs,” that he got from “a friend of his who is a cop,” which frightened Ms. Eckhart.

71. Mr. Henry then proceeded to laugh at Ms. Eckhart and take humiliating naked photographs of her on his iPhone as she laid naked, helpless, afraid and restrained on the bed in handcuffs. She, again, pleaded for him to stop and demanded that Mr. Henry delete the naked photos he took of her on his phone without her consent. Mr. Henry, again, simply laughed at Ms. Eckhart and did not delete the photos. Ms. Eckhart realized at that moment that Mr. Henry was taking these degrading photographs of her to hold as collateral in an effort to blackmail her, and to ensure her silence so that she never exposed his vile misconduct.

72. In doing so, Mr. Henry took a page out of the playbook of Roger Ailes, the former disgraced Chairman and CEO of Fox News, who allegedly videotaped and forced one of his female victims to dance for him half-naked. Mr. Ailes allegedly kept the videotape of his victim in a safe deposit box as blackmail in case she ever exposed his behavior; therefore, Ms. Eckhart felt the exact same thing was happening before her eyes and she began to panic.

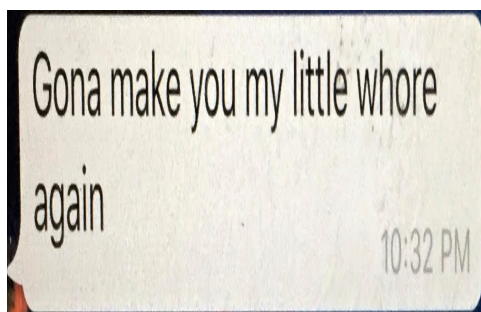
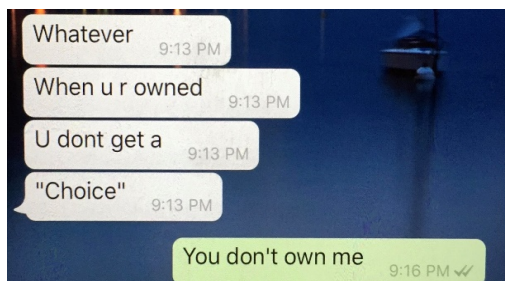
73. When Mr. Henry was done taking photographs of Ms. Eckhart, he proceeded to forcefully rape Ms. Eckhart while she was still restrained and helpless in handcuffs. While raping Ms. Eckhart, Mr. Henry performed painful sadistic acts on Ms. Eckhart, which included, among many other things, violently hitting her in the face multiple times while she remained handcuffed.

74. Ms. Eckhart did not consent to any part of this violent, painful rape.

75. Ms. Eckhart left the hotel in a state of shock, bruised and battered with bloody wrists and a bloody lip. She flagged a taxi to take her home, and even the taxicab driver asked if she was physically okay (she was not).

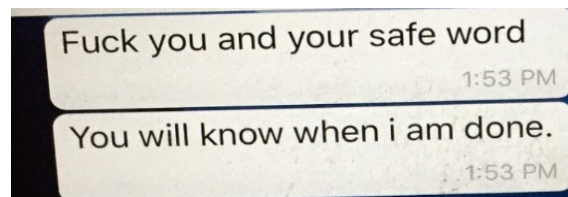
76. The next day, Mr. Henry texted Ms. Eckhart an angel face emoji saying it was “nice to meet her for a quick drink,” completely omitting the fact that he had violently raped her. Ms. Eckhart informed Mr. Henry that he had physically injured her. Specifically, she told him in text messages that she had sore wrists (they were actually bleeding), a mark on her buttocks, a broken nail and a bruise on her leg, among other serious injuries to her body.

77. Mr. Henry did not even attempt to hide the fact that he was extremely violent with Ms. Eckhart, and proceeded to send her even more WhatsApp messages while co-anchoring “Fox & Friends” that read, “You’ll cum back for more,” “Will let you know,” “If/when avail” “so you can get slapped around some more” and “Gona make you my little whore again.” He also wrote, “You know” “Who” “Your daddy” “Is[.]” “Good long session last time[.]” “Left you bruised[,] batter[ed][,] dazed.” Mr. Henry further admitted the sadistic and non-consensual nature of his actions when he wrote to Ms. Eckhart “When u r owned” “U don’t get a” “choice.”



78. Then, on Valentine's Day, 2017, Mr. Henry texted Ms. Eckhart, "Again please," as well as another text in which he again admitted to leaving Ms. Eckhart "bruised" and "battered." Ms. Eckhart informed Mr. Henry in a text message that she was "STILL bruised and battered," to which Mr. Henry disgustingly replied by saying that Ms. Eckhart needed to "take her punishment."

79. Later that same day, Mr. Henry wrote: "Fuck you and your safe word. You will know when I am done." Ms. Eckhart never had a "safe word," and was extremely afraid and confused by Mr. Henry's violent and unsolicited language over text.



80. When Ms. Eckhart tried to end the conversation by saying that Mr. Henry needed to be nicer to her because it was Valentine's Day, he responded, "Nah. Valentine my ass." When Ms. Eckhart, again, attempted to end the conversation by sending two emojis to Mr. Henry, he responded violently, "Get on your knees again and I'll give you your valentine."

81. The next day, Mr. Henry texted Ms. Eckhart, informing her that he would be guest-hosting Tucker Carlson's show on Fox News' "Tucker Carlson Tonight." He asked Ms. Eckhart to watch him anchor the show and proceeded to text her throughout the program while he was ostensibly anchoring one of the highest rated shows at Fox News, demonstrating a clear display of his professional power.

**V. FOX NEWS UNLAWFULLY TERMINATES MS. ECKHART’S EMPLOYMENT AFTER MR. HENRY’S CONTINUED HARASSMENT AND RETALIATION**

82. Following the incredibly painful rape and Mr. Henry’s violent follow-up messages, Ms. Eckhart made every possible effort to cease all communications with Mr. Henry as she was in fear for her safety.

83. Unfortunately, however, Ms. Eckhart was forced to continue seeing her abuser walk the halls of Fox News’ New York City offices. On more than one occasion, Ms. Eckhart saw Mr. Henry approaching, and ran inside one of the bathrooms at Fox News to hide from him, which is a normal “fight-or-flight” triggered response after a traumatic event.

84. Because Ms. Eckhart refused to even come near Mr. Henry, he continued to harass and retaliate against her for rejecting his continued advances.

85. By way of example, on October 5, 2018, Ms. Eckhart saw Mr. Henry approaching her at the Fox News offices. She immediately turned around and walked in the opposite direction. This angered Mr. Henry, who e-mailed her later that day saying, “Why’d you turn away today?” This made clear to Ms. Eckhart that Mr. Henry believed he had the right and power to control her conduct within the premises of Fox News, further demonstrating his use of his position to exercise dominion over her. Ms. Eckhart never responded to his message.

86. Less than three weeks later, Mr. Henry again attempted to engage with Ms. Eckhart by sending her a Twitter DM that said, “YO!” Ms. Eckhart, again, did not respond.

87. By way of another example at the offices of Fox News in New York, Ms. Eckhart, yet again, tried to ignore and even physically ran away from Mr. Henry to avoid having any interaction with him. Mr. Henry texted Ms. Eckhart an image of a football player doing “the Heisman pose,” implying she was trying to get away from him, which she was.

88. After Ms. Eckhart repeatedly ignored and rejected Mr. Henry's continued advances, Mr. Henry quietly unfollowed Ms. Eckhart on Instagram in 2018, and conspicuously removed dozens of "likes" he had given to photos of her. Mr. Henry was trying to cover up his interactions with Ms. Eckhart after he realized that she would no longer engage with him. It became evident that Mr. Henry now viewed Ms. Eckhart, his work colleague, as a liability for him and his lucrative on-air career at Fox News.

89. In December 2019, despite the fact that Fox News was well aware of Mr. Henry's inappropriate sexual misconduct (*see infra*), it announced that Mr. Henry was promoted to the position of co-anchor of the "America's Newsroom" program.

90. On February 10, 2020, Ms. Eckhart bravely came forward and attempted to expose the toxic work environment she had been experiencing while employed at Fox News. Specifically, during a conversation with Denise Collins, the Senior Vice President of Human Resources at Fox News, and Mr. Hirst, she informed them about the abuse and hostility that she had endured for years. Although Ms. Eckhart did not explicitly mention sexual harassment or misconduct, under the circumstances Ms. Collins and Mr. Hirst should have and, upon information and belief, did understand Ms. Eckhart to be "complaining" about unlawful harassment.

91. Ms. Collins and Mr. Hirst ignored Ms. Eckhart's obvious plea for help, and never followed up with Ms. Eckhart about her genuine concerns in this regard, nor did either make any effort to investigate or remediate the toxic working environment she complained about. To the contrary, Mr. Hirst told Ms. Eckhart to "prepare herself to face repercussions" if she lodged any further complaints. For her part, Ms. Collins turned to Mr. Hirst during their meeting with Ms.

Eckhart, and asked him whether *he* thought the environment at Fox News was toxic. Mr. Hirst responded, “no,” and that seemed to satisfy Ms. Collins.

92. Instead of addressing Ms. Eckhart’s completely valid concerns, Fox News instead decided to put Ms. Eckhart on a purported “Performance Improvement Plan” (“PIP”) after she had dedicated more than seven years of her life to the Company. Ms. Eckhart was put on this PIP notwithstanding having received countless hand-written cards and emails of praise from her superiors, including Mr. Hirst, Ms. Claman, Fox Business Network Senior Vice President Gary Schreier and Senior Vice President of Programming, Thomas Bowman, in recognition of her continued hard work, success and dedication to the Company. *See supra* at ¶¶ 30-33.

93. Thereafter, on June 9, 2020, Ms. Eckhart received an email from Mr. Hirst informing her that 2020 performance evaluations would be suspended due to the extraordinary events that challenge everyday work routines caused by the Covid-19 pandemic. Mr. Hirst wrote to Ms. Eckhart and the rest of her production staff, “In the next few weeks, I will schedule a Zoom meeting with each of you to discuss your performance and your future growth as television professionals.”

94. However, Ms. Eckhart never received such an invitation for the scheduled Zoom call that was promised by Mr. Hirst. Instead, on June 12, 2020, Fox News further retaliated against Ms. Eckhart by informing her that her employment would be terminated effective June 26, 2020, after more than seven years of employment. Incredibly, during Ms. Eckhart’s “exit meeting” with both Mr. Hirst and Ms. Collins, Ms. Collins asked Ms. Eckhart if she had been sexually harassed and/or assaulted while employed by Fox News. Clearly, Fox News had understood Ms. Eckhart’s February 2020 complaints to encompass such unlawful harassment

and made the unilateral decision to take no further action until *after* it had already terminated her employment.

## **VI. FOX NEWS' INSTITUTIONAL APATHY TOWARDS SEXUAL MISCONDUCT**

95. Fox News, unfortunately, has engaged in a lengthy and unsavory pattern and practice of ignoring and covering up sexual misconduct while protecting the individuals who engage in it.

96. The #MeToo movement ignited after former Fox News anchor Gretchen Carlson, and at least 20 other women, accused then-Fox News Chairman and CEO Roger Ailes, of sexual misconduct. *See, e.g.*, [https://www.huffpost.com/entry/roger-ailes-accusers-list\\_n\\_57a9fa19e4b06e52746db865](https://www.huffpost.com/entry/roger-ailes-accusers-list_n_57a9fa19e4b06e52746db865).

97. Shortly thereafter, Bill Shine, who Fox News installed as Co-President of the Company after Ailes' departure, left Fox News following accusations that he aided and abetted the sexual harassment crimes of Roger Ailes. *See, e.g.*, <https://www.nytimes.com/2018/07/05/us/politics/bill-shine-fox-news.html>. Indeed, as one former Fox News Senior Producer – Jane Doe 4 – wrote to Ms. Eckhart, “we know Bill [Shine] knew everything about Roger [Ailes].”

98. Later, reports were published that exposed the lengthy history of sexual harassment allegations against Fox News' biggest and highest earning star, Bill O'Reilly, including reports that Fox News offered him a massive \$100 million contract over four years notwithstanding its prior knowledge of his sexual misconduct. *See, e.g.*, <https://www.nytimes.com/2017/04/01/business/media/bill-oreilly-sexual-harassment-fox-news.html>; <https://www.nytimes.com/2017/10/21/business/media/bill-oreilly-sexual-harassment.html>.

99. Specifically, by January 2017, Fox News was aware that Mr. O'Reilly had entered into at least six settlement claims of sexual harassment, including a January 2017 settlement of a claim involving allegations of "repeated harassment, a nonconsensual sexual relationship and the sending of gay pornography and other sexually explicit material." *See* <https://www.nytimes.com/2017/10/21/business/media/bill-oreilly-sexual-harassment.html>.

100. One month later, in February 2017, Fox News renewed Mr. O'Reilly's contract for four years at an unjustifiable amount of \$25 million per year. Incredibly, when confronted about this by the New York Times, the Company said, "Fox News 'surely would have wanted to renew' Mr. O'Reilly's contract, noting that 'he was the biggest star in cable TV.'" *See* <https://www.nytimes.com/2017/10/21/business/media/bill-oreilly-sexual-harassment.html>.

101. This is a direct admission that Fox News is willing to retain individuals who are known to repeatedly engage in unlawful acts of sexual misconduct, so long as they are profitable. Indeed, Mr. O'Reilly was only terminated by Fox News months later when advertisers started dropping his show, "The O'Reilly Factor," and the Murdoch family learned that federal prosecutors were on the verge of learning about his bombshell January 2017 settlement. *See* <https://www.nytimes.com/2017/10/21/business/media/bill-oreilly-sexual-harassment.html>; <https://www.forbes.com/sites/maddieberg/2017/04/04/here-are-all-the-advertisers-who-have-dropped-bill-oreilly/?sh=24d69c377987>.

102. In a desperate attempt to try to salvage what remained of Fox News' documented history and reputation of animus toward women in the workplace, Fox News made the strategic decision to promote a female, Suzanne Scott, to be its current Chief Executive Officer, notwithstanding the fact that a litany of individuals allege that she, too, covered up claims of sexual harassment, including those perpetrated by Mr. Ailes. *See, e.g.,*



<https://www.theguardian.com/media/2018/may/17/suzanne-scott-who-is-she-fox-news-ceo-female-miniskirt-rule>. Moreover, as put by a former Fox News Senior Producer, “Suzanne was Bill [S]hine’s partner in crime.”

103. In recent weeks alone, multiple additional Fox News on-air personalities (both former and one current) have been accused of sexual assault and sexual harassment. However, staying true to its long and well-documented history of apathy toward such accusations, Fox News continues to reward and employ Judge Andrew Napolitano, as well as on-air personality George Murdoch, known to Fox News viewers as “Tyrus,” even after serious sexual assault allegations (Judge Napolitano) and sexual harassment allegations (Tyrus) were brought against them. *See, e.g.*, <https://www.cnn.com/2020/10/01/media/kimberly-guilfoyle-fox-allegations/index.html>; <https://www.businessinsider.com/fox-news-analyst-andrew-napolitano-accused-of-sexual-assault-2020-9>; <https://www.latimes.com/entertainment-arts/business/story/2019-12-10/britt-mchenry-sues-fox-news-tyrus-sexual-harassment-claim-former-un-pc-co-host>.

104. Fox News’ institutional apathy and unwillingness to stamp out sexual harassment and abuse in the workplace is borne out of its view that profits are more important than the physical and mental wellbeing of its female employees. The “Fox News Fear Factory,” originally instituted by Mr. Ailes, unfortunately continues to silence victims while promoting a culture of fear that enables women to be sexually harassed and assaulted by some of the Company’s highest earning stars.

105. In other words, so long as the abusers and perpetrators continue to “line the pockets” of Fox News by helping its bottom line and boosting its ad revenue, Fox News looks the other way.

106. Despite Fox News accruing a seemingly never-ending plethora of sexual abuse, harassment and assault allegations depicting a misogynist workplace and advertiser boycotts, from Fox News' toxically skewed vantage point, "Business has never been better!"

107. By way of just one example, on an earnings call in early August of 2020, Lachlan Murdoch, the Executive Chairman of Fox News' parent company, praised Fox News' "ratings surge" and "strong advertising revenue," led by anchors Tucker Carlson and Sean Hannity.

108. Adding to Fox News' bottom line, according to data released by Nielsen and reporting from The New York Times, "[i]n June and July of 2020, Fox News was the highest-rated television channel in the prime-time hours of 8 to 11 p.m. Not just on cable. Not just among news networks. *All* of television. The average live Fox News viewership in those hours outstripped cable rivals like CNN, MSNBC and ESPN, as well as the broadcast networks ABC, CBS and NBC, according to Nielsen." *See*,

<https://www.nytimes.com/2020/08/09/business/media/fox-news-ratings.html>.

109. Additionally, according to data from Kagan, the media research group within S&P Global Market Intelligence, Kagan's forecast predicts that "Fox News [] will make \$1.32 billion in advertising [in 2020] alone." *See*, <https://www.mediaite.com/tv/election-boom-heres-how-much-ad-money-cnn-fox-news-and-msnbc-are-expected-to-make-in-2020/>

## **VII. FOX NEWS' FAILURE TO ACT PROVIDED MR. HENRY WITH THE OPPORTUNITY TO RAPE MS. ECKHART**

110. At approximately the exact same time Fox News was renewing Mr. O'Reilly's contract, the Company was fielding complaints from women about sexual misconduct perpetrated by Mr. Henry.

111. Indeed, starting in mid-2016, Fox News (through the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul Weiss")) conducted a series of Company-wide

investigations into issues of sexual harassment. During the investigations, multiple women came forward to complain that Mr. Henry had engaged in sexually inappropriate conduct towards them. According to reports, this was known to Fox News' Executive Vice President of Human Resources, Kevin Lord, as well as Fox News President and Executive Editor, Jay Wallace, and Fox Business Network President, Lauren Petterson. Upon information and belief, these women came forward to complain *before* Ms. Eckhart was raped by Mr. Henry.

112. Adding fuel to the fire, these legitimate concerns were raised *after* Mr. Henry was exposed and later suspended for four months by Fox News in 2016 after having a 10-month long affair with a Las Vegas stripper.

113. According to reporting from NPR:

In 2017, a written complaint was filed to senior Fox [News] executives warning against giving [Mr.] Henry greater profile on the air, including as a substitute host and anchor, according to a former colleague with knowledge of those events.

The complaint said the prospect of [Mr.] Henry's greater prominence on Fox [News] was crushing for female colleagues after the network had promised sweeping changes following Ailes' ouster. Among those with whom the complaint was shared: Jay Wallace, [Fox News'] chief news executive, and Kevin Lord, the chief human relations executive who was brought in with the mandate to help transform the culture.

See <https://www.npr.org/2020/07/01/885956385/fox-news-host-newly-fired-for-sexual-misconduct-had-inspired-earlier-warning>. Upon information and belief, this written complaint was sent to Fox News prior to Mr. Henry raping Ms. Eckhart.

114. The Daily Beast has also reported on the fact that knowledge of Mr. Henry's sexual misconduct was a widespread "open secret" at Fox News:

Several current Fox News employees agree that [Mr.] Henry's reputation was well-known at Fox [News] [headquarters] long before the network gave him the boot. One staffer, who requested

anonymity out of fear of retaliation from her Fox [News] bosses, recalled how she was repeatedly warned about [Mr.] Henry's behavior before she engaged in a sexual relationship with him beginning in November 2016 and ending March 2020.

<https://www.thedailybeast.com/ed-henrys-accusers-say-his-behavior-was-an-open-secret-at-fox-news>.

115. The same staffer further stated: "I think Fox News was aware of his behavior. His reputation was mixed. While some saw [Mr. Henry] as friendly and jovial, others believed he could be unpleasant and harsh-natured in the workplace. It was well-known he flirted with younger women in the office. I heard people say, in general, to be careful with him because of his flirtatious nature." <https://www.thedailybeast.com/ed-henrys-accusers-say-his-behavior-was-an-open-secret-at-fox-news>.

116. A different former staffer, who was herself allegedly sexually assaulted by yet another on-air talent at Fox News, stated that: "Fox [News] may be a big company, but things get around. Employees talk. I was sure to ask around among my female coworkers. Heck, I even heard it from some males who were aware about names I should stay away from or watch out for. [Mr.] Henry consistently came up." <https://www.thedailybeast.com/ed-henrys-accusers-say-his-behavior-was-an-open-secret-at-fox-news>.

117. Moreover, when news broke about Mr. Henry's extramarital affair with the Las Vegas stripper in 2016 – prior to the rape – Ms. Claman told Ms. Eckhart, verbatim, "Oh [Ms. Eckhart], everyone at Fox News knows that [Mr.] Henry is a sex addict. That's no secret." Jane Doe 4, a former Fox News Senior Producer, also told Ms. Eckhart that she "[couldn't] see how [Fox News] couldn't" have known about Mr. Henry, and that "I feel like I knew about this even before I went to Fox. If not then, early on there."

118. Thus, Fox News was at all relevant times aware that Mr. Henry was leveraging his position to coerce and groom young, impressionable women into sexual relationships.

119. By its inaction and further promotion of Mr. Henry, Fox News was telling its female employees, including Ms. Eckhart, that Mr. Henry was “untouchable” and that any further complaints about him would fall on deaf ears. In such an environment, Ms. Eckhart felt stifled in her ability to seek redress from management.

120. And yet, as it had done with Mr. O’Reilly, Fox News failed to take any meaningful disciplinary action or terminate Mr. Henry. Indeed, Fox News decided to look the other way and retain Mr. Henry even as complaints against him piled up, knowing that he engaged in serial sexual misconduct, because he was good for business – *i.e.*, his presence at the network resulted in revenues for Fox News. Indeed, it has been reported that Mr. Henry was a “favorite of network management,” including Ms. Scott.

121. It was, upon information and belief, only matter of weeks or months after Fox News chose to ignore the complaints referred to *supra* at ¶¶ 110-111, 113, that Mr. Henry violently raped Ms. Eckhart.

122. While Ms. Eckhart’s life would never be the same from that point forward, Fox News continued to reward Mr. Henry.

123. Indeed, according to reporting by NPR,

After the scandal in 2016, [Mr.] Henry revived his career. He became the substitute host of *Fox & Friends Weekend* and a chief national correspondent. In December [2019], he became the co-host of the morning show *America’s Newsroom*. That revival was conditioned on [Mr.] Henry’s completion of a sexual addiction rehabilitation program according to several former colleagues.

His career resurgence became a source of consternation for some co-workers. Several former colleagues tell NPR that over the years, [Mr.] Henry proved aggressively flirtatious with younger, female Fox staffers. He sometimes sent graphic notes and even graphic images to them, according to these colleagues.

<https://www.npr.org/2020/07/01/885956385/fox-news-host-newly-fired-for-sexual-misconduct-had-inspired-earlier-warning>.

124. Moreover, HarperCollins, an affiliate of Fox News, subsequently gave Mr. Henry a lucrative book deal which resulted in him becoming a New York Times Best-Selling author.

125. Fox News later rewarded Mr. Henry with a new streaming show on Fox Nation called, “Ed Henry’s Front Row Seat,” and HarperCollins gave Mr. Henry yet another book deal.

126. In December 2019, despite the fact that Fox News was well aware of Mr. Henry’s inappropriate sexual misconduct, it was announced that Mr. Henry was promoted to the position of co-anchor of the “America’s Newsroom” program, in which he would anchor three hours of national television programming Monday through Friday.

127. Upon hearing the news and receiving an email from Fox News executives praising Mr. Henry and announcing his promotion, Ms. Eckhart burst into tears and ran to the nearest bathroom at Fox News to throw up after seeing that her abuser was rewarded such a highly coveted anchor position at the network.

128. Fellow colleagues of Ms. Eckhart’s at Fox News even gossiped around the entire network, stunned that the network’s executives would make such a reckless decision to promote Mr. Henry, a known sexual predator, to anchor of “America’s Newsroom.” One such colleague who was “stunned” by Fox News Channel’s inept decision to promote such a sexual deviant was Fox Business Senior Correspondent Charlie Gasparino. Mr. Gasparino, during a conversation

with Ms. Eckhart and their colleague Milanee Kapadia, stated that Mr. Henry never should have been promoted to such a position.

129. It was approximately around this time that Mr. Henry continued to further abuse his position of power at Fox News to sexually harass Cathy Areu, as described *infra*.

130. When this lawsuit was initially filed, Fox News issued a public statement claiming that no one had complained to Fox News about Mr. Henry and his sexual misconduct until Ms. Eckhart put the Company on notice of her claims. This is simply not true.

131. In reality, Fox News knew that Mr. Henry had engaged in a pattern and practice of sexual misconduct – some former and current female staffers even referred to his sexual harassment as an “open secret” at the Company. Fox News was also aware of Mr. Henry allegedly seeking treatment for sex addiction, but made the conscious decision not to take appropriate measures to protect its female employees from him.

132. Fox News’ actions only further emboldened Mr. Henry, allowing him to obtain increasingly greater power and prominence to engage in further sexual misconduct toward vulnerable female employees.

133. Fox News was at all times aware that if it took action in response to the complaints about Mr. Henry, it would potentially be costing itself millions of dollars. The Company further knew that, so long as it employed Mr. Henry, he would continue to prey on innocent young women. Fox News therefore effectively entered into a devil’s bargain – so long as Mr. Henry was continuing to generate revenue for the Company, it was willing to look the other way and even provide him access to additional victims.

## **VIII. MR. HENRY'S LONG HISTORY OF SEXUAL MISCONDUCT AND MISOGYNY**

### **A. Brooke Hammerling**

134. Ms. Hammerling works in media relations and met Mr. Henry when he was employed with CNN.

135. According to Ms. Hammerling, when she met Mr. Henry, “he definitely made the moves on me and I said no which was fine; I felt like swatting him away like a fly. He was not someone that would directly impact my job so I didn’t really care. But was stunned by the openness and the swiftness of the sexual nature of his messages to me. Even when I tried to just brush them off and think he was just a horny little dude... and tr[ied] to keep it professional and email or text I can’t recall... he would always come back with something sexual and perverted.”

136. Ms. Hammerling started a media relations company where she was introduced to Mr. Henry.

137. As he has done with several other female victims, Mr. Henry made sexual advances toward Ms. Hammerling almost immediately upon meeting her.

138. When Ms. Hammerling mentioned Mr. Henry’s lascivious behavior to other women in the communications industry, they would knowingly roll their eyes and confirm that he was known to be a “horn dog.”

139. On August 31, 2020, Ms. Hammerling tweeted the following message: “No chance @foxnews didn’t know about Ed Henry. He was a menace to many of us on the comm[unication]s side when he was at @cnn and everyone talked about it. Literally so so so gross.”





## B. Roxie Marroquin

140. Ms. Marroquin was dating a Fox News Whitehouse correspondent and colleague of Mr. Henry’s in 2015 when Mr. Henry reached out to her through a private Twitter DM.<sup>2</sup>

141. Ms. Marroquin, who was at the time only 25 years old and seeking a mentor in the media industry, asked Mr. Henry to “meet up...just as friends of course,” and suggested that “maybe [he] c[ould] teach [her] a few things about the industry.”

142. Mr. Henry, seizing yet another opportunity to take advantage of a young woman, began texting Ms. Marroquin sexual messages, including stating that she had a “tight body” and “must have given [her ex-boyfriend] amazing sex.” The then-Fox News Chief White House Correspondent invited her to meet him at The Wynn hotel in Las Vegas, Nevada where he was staying at the time.

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<sup>2</sup> <https://www.truehollywoodtalk.com/woman-claims-ex-fox-news-anchor-ed-henry-sends-private-investigator-to-silence-her-from-exposing-their-extra-marital-rendezvous/>.

143. When Ms. Marroquin arrived at the Wynn hotel – after telling Mr. Henry that she only wanted to be friends – Mr. Henry asked her to go back to his hotel room, purportedly because he did not want people to recognize him in public.

144. When the two arrived at his hotel room, Mr. Henry drew up a bubble bath and directed Ms. Marroquin to join him in it. According to Ms. Marroquin, “I was honestly kind of afraid and frozen. I wasn’t sure what to do in the moment. I felt trapped, in a way, like, ‘oh man, did I give this person the wrong impression? What happens if I don’t do this?’ It was a lot of emotions. So, I ended up getting in the bathtub. Fully nude. How this happens to a 25-year-old, I can’t explain, besides fear of rejecting him.”

145. After she got into the bathtub, Mr. Henry began touching her breasts and vagina and asked her to touch him. Ms. Marroquin submitted to the pressure of Mr. Henry’s advances.

146. Soon thereafter, Mr. Henry began to panic out of fear that Ms. Marroquin would expose their sexual encounter. He began sending her harassing messages demanding that she meet with him and threatening her. In one message, Mr. Henry wrote: “If you are talking [to a magazine] I am pushing back super hard and pointing out [her ex-boyfriend] so that I tell the truth. Tell me you are not talking or I am going to [the] magazine to push back hard.”

147. Mr. Henry subsequently arranged to meet with Ms. Marroquin at a restaurant in Washington, D.C. However, when Ms. Marroquin arrived at the restaurant with her son, she was, instead, confronted by a private investigator who told her to “keep her mouth closed” and that he knew where she lived. He also threatened that Mr. Henry would sue her.

148. In Ms. Marroquin’s words: “I have nothing to hide...Ed Henry is a sexual predator. I do know that he preys on girls who are very young and very impressionable.”

**C. Jane Doe 1**

149. Jane Doe 1 currently works as an Associate Producer for Fox News in Washington, D.C. where she first met Mr. Henry.

150. Shortly after Mr. Henry met Ms. Doe 1, he inappropriately sent her a picture of his penis.

151. Jane Doe 1 later learned that he had sent a similar “dick pic” to another junior female employee at Fox News (“Jane Doe 2”).

152. Despite being warned about Mr. Henry’s lascivious behavior, Ms. Doe 1 entered into a relationship with Mr. Henry, seduced by his senior position and high profile, all enabled by Fox News.

153. Ms. Doe 1 has described her relationship with Mr. Henry as emotionally abusive. She further stated that she was “taken advantage of because I was much younger than him. There was a power imbalance.”

154. Throughout their relationship, Mr. Henry would engage in textbook patterns of abuse. He would lavish Ms. Doe 1, a current Fox News staffer, with expensive gifts and profess his love for her while at the same time saying “fuck you” to her anytime she disagreed with him or objected to his abusive behavior. Ms. Doe 1 also told Ms. Eckhart in a text message that Mr. Henry often referred to her as a “whore.” Ms. Doe 1 also informed Ms. Eckhart that when she got promoted to Associate Producer at Fox News, Mr. Henry laughed in her face, and told her that she would “never amount to success.”

155. It wasn’t until later that Ms. Doe 1 found out that Mr. Henry was professing his “love” to her during the same time period in which he violently raped Ms. Eckhart in a hotel room paid for by Fox News.

156. Ms. Doe 1 told Ms. Eckhart in a text message that, during a sexual encounter, Mr. Henry “slapped her face so hard that she cried right away.” Ms. Doe 1 also told Ms. Eckhart in a text that Mr. Henry’s abusive behavior caused her to have severe depression.

157. Additionally, Ms. Doe 1 informed Ms. Eckhart that Mr. Henry was “extra predator-like” and “used many of his sex toys on her,” and even coerced her into having inappropriate sex with him on top of his New York City office desk at Fox News on June 9, 2019.

158. Similarly, in late 2019/early 2020, Ms. Doe 1 confronted Mr. Henry about the inappropriate messages he was exchanging with Ms. Cathy Areu (described *infra*). Mr. Henry sought to evade responsibility by claiming it was “innocent flirting.”

159. Yet another female friend (“Jane Doe 3”) informed Ms. Doe 1 that, when she first started her career in the journalism industry, Mr. Henry asked her to come to his hotel room when he was visiting Los Angeles, California. This woman took another female friend with her to his hotel room so that she would not have to go alone. Once there, Mr. Henry plied the two young women with alcohol, tried to seduce them and attempted to kiss Ms. Doe 3, who rejected his advances. When Ms. Doe 1 confronted Mr. Henry about this, he brushed her complaints aside, claiming that his behavior was “innocent.”

160. After this action was filed, Ms. Doe 1 tweeted her support for Ms. Eckhart. In a blatant and desperate attempt to bully and intimidate Ms. Doe 1, an executive with Fox News’ Human Resources immediately called her and demanded to know why she was publicly supporting Ms. Eckhart, a former colleague and victim of sexual assault.

161. Ms. Doe 1 informed Ms. Eckhart in a text message that she and numerous other women remain scared to come forward to Fox News' Human Resources Department due to fear of retaliation "because of how they fired Ms. Eckhart."

**D. Jane Doe 4**

162. Ms. Doe 4 is a former Senior Producer at Fox News.

163. Before Ms. Doe 4 joined Fox News, she worked as a news producer at a local station.

164. According to Ms. Doe 4: "[Mr. Henry] actually DMed me when I was a LOCAL news producer in [ ] and 23 years old – I was taken aback but engaged a bit – but when it was clear what he was after I stopped. But then we ended up working together I had to tell him I was going to FOX. No real issues once I was there *but I think it's clear this is his MO*. My main takeaway from it was just how reckless he was."

**E. Cathy Areu**

165. In or around 2017, Ms. Areu became a regular "analyst" on Fox News. She could be seen on the network approximately five or more times per week, including appearances on the most highly rated programs on Fox News, including "Tucker Carlson Tonight," "Media Buzz with Howard Kurtz," "Hannity," "The Ingraham Angle," "Outnumbered," "Fox and Friends," "Fox and Friends First," "Watters' World," "The Story with Martha MacCallum," "Fox News @ Night" with Shannon Bream, Neil Cavuto's "Cavuto Live," "Your World" and "Coast to Coast."

166. In 2018, Ms. Areu became particularly well known for her segments on "Tucker Carlson Tonight," where she was given one of four regular segments on the show, appearing on a regular basis as "The Liberal Sherpa."

167. In 2018, “Tucker Carlson Tonight” was the second highest-rated show on Fox News (after “Hannity”)<sup>3</sup> and Ms. Areu appeared at least 22 times.

168. Indeed, Ms. Areu’s “Liberal Sherpa” segments garnered tens of millions of views and continue to be accessible on Fox News’ website. They were also for a time, and may still be, the most viewed segments on Fox News.

169. As a result of the success of Ms. Areu’s appearances, the “Tucker Carlson Tonight” show created individualized graphics and an audio package for Ms. Areu’s “Liberal Sherpa” appearances.

170. In April 2018, Ron Mitchell, the Vice President of Primetime Programming at Fox News, told Ms. Areu that “The Liberal Sherpa” segment was “the best re-occurring segment in many years” and said: “You now have what so many on-air personalities take many years to develop – your own catchphrase!” In June 2018, Mr. Mitchell emailed Ms. Areu with the subject heading: “You are getting your own special!” and in the body of the email wrote: “On Tucker’s show on July 4 – nothing but the Liberal Sherpa.”

171. As a result, in 2018, Ms. Areu began having serious conversations with a myriad of employees at Fox News, regarding being brought on-board as a paid contributor, including Mr. Mitchell. In July 2018, after a Liberal Sherpa segment on “theybies” went viral, Mr. Mitchell emailed the following to Ms. Areu: “They think it will hit 20 million by the end of the week!” He then stated: “And I just remembered that I owed you [an] answer on meetings with executives. ... I know that you are already on the list.”

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<sup>3</sup> See <https://thehill.com/homenews/media/421114-fox-news-wins-2018-ratings-race-msnbc-has-its-best-year-ever>.

172. During that time, Ms. Areu also began working with her agent at William Morris and was nearing the “financials” stage of a contract with Fox News. According to Ms. Areu’s agent, Fox News was in final discussions to bring her on board as an official paid contributor.

173. After Mr. Henry hosted a primetime show, “The Story with Martha MacCallum” in New York City in May 2019, Mr. Henry spoke to Ms. Areu about his recent surgery. The two took a picture together with Ms. Areu’s phone, which she then shared with Mr. Henry. As a result, Mr. Henry had succeeded in obtaining Ms. Areu’s cell phone number. Almost immediately after receiving her cell number, Mr. Henry began sending Ms. Areu a slew of wildly inappropriate sexual images, messages and videos through the first half of 2020, including many texts in which he implied that Ms. Areu should have sex with him and that he would assist Ms. Areu’s career if she did so.

174. Ms. Areu did her best to change the subject by discussing current events and other news-related topics, while also attempting to ensure that he was not angry that she refused to “play along” with his sexually inappropriate text messages.

175. However, as the text messages continued, so did Mr. Henry’s wildly grotesque and inappropriate texts to Ms. Areu. Examples include, among others:

- A “close-up” photograph of a woman’s vagina being “clamped” closed by clothespins;
- A photograph of an individual wearing a mask that has a large penis in lieu of a nose and Mr. Henry’s message: “Did you miss me?”;
- A photograph of a vibrator faux smoking a cigarette;
- A photograph with a woman with her mouth open and tongue extended, with a man’s hands pulling her towards his midsection, captioned “In case you wondering ... the male g-spot is located at the back of a woman’s throat;”

- A photograph of a woman's rear end and vagina modified to include the features of a bunny rabbit (this was sent on Easter);
- A woman wearing nothing but three masks, in which her entire body is exposed other than her breasts and vagina;
- A photograph of a rubber glove where each finger appears to be a dildo and/or ribbed like a condom;
- A video of a woman running across the room and jumping towards a camera – her skirt lifts up and the video ends with a closeup of her vagina; and
- A video entitled “Fastest Interview ... candidate selected in 3 seconds.” In the video, a female purportedly interviewing for a position exposes her vagina, after which the male interviewer indicates that she got the job.

176. As noted, the “fastest interview” video shows a purported interviewee flashing her vagina to the interviewer, who immediately offers her the job.

177. Immediately after Mr. Henry sent Ms. Areu this video, he texted her, “Are you avail for anchor interview.”

178. Mr. Henry knew that Ms. Areu was looking for full-time work at Fox News, and was telling her, in no uncertain terms, that he would assist her career if she had sex with him.

179. On May 21, 2020, Mr. Henry asked Ms. Areu to speak over the phone. Ms. Areu was direct with Mr. Henry and asked whether he thought that Fox News might be hiring. Mr. Henry then made it clear what he expected from Ms. Areu if she wanted his assistance. Specifically, he started berating her for being “boring” and “not who [he] thought [she] w[as].” After Ms. Areu did not assuage Mr. Henry’s concerns by indicating that she was not “boring” (*i.e.*, that she would be willing to engage in sexual acts with him), Mr. Henry ended the call.



180. Over the following two weeks, Ms. Areu, attempting to salvage the relationship (in order to salvage her career), pitched various story ideas. When Mr. Henry failed to even respond, she wrote to him, “Wait, you haven’t written to me since we spoke. I sucked that bad?” Mr. Henry – making it clear that he was unhappy that Ms. Areu had decided not to sleep with him in exchange for his assistance with her career – wrote, “Nah you decided to be a jerk which made me sad.” Of course, Mr. Henry was simply fishing for Ms. Areu to change her mind and sleep with him. When she failed to do so, he simply wrote, “All good. Hope Florida is fabulous.”

181. In her separate federal action, Ms. Areu also alleges that she was sexually harassed by other on-air talent at Fox News and retaliated against when she rebuffed those advances and engaged in protected activity. The allegations in Ms. Areu’s federal complaint are incorporated herein by reference.

#### **IX. DEFENDANTS FURTHER RETALIATE AGAINST MS. ECKHART**

182. On June 25, 2020, Ms. Eckhart, through counsel, put Fox News on notice that she retained legal counsel in connection with legal claims against Mr. Henry and Fox News.

183. Ms. Eckhart’s legal counsel explained to Fox News that Mr. Henry, approximately twice Ms. Eckhart’s age, preyed upon, manipulated and groomed Ms. Eckhart starting at the young age of 24 by exerting his abuse of power over her and her career.

184. Ms. Eckhart’s counsel described to Fox News, in graphic and specific detail, how Mr. Henry groomed, psychologically manipulated and coerced Ms. Eckhart into having a sexual relationship with him, and that, when she would not comply voluntarily, he sexually assaulted her on office property, and raped her at a hotel where Fox News frequently lodged its visiting employees.

185. Ms. Eckhart's counsel also explained to Fox News, in graphic and specific detail, that Ms. Eckhart was violently raped while helpless and restrained in metal handcuffs, as Mr. Henry performed sadistic acts on her without her consent that left her injured, bruised and battered with bloody wrists and a bloody lip.

186. To be clear, Ms. Eckhart did not consent to any part of this violent, painful rape. The day after this rape, as noted above, Ms. Eckhart told Mr. Henry in writing that he had physically injured her. Ms. Eckhart told him that she had sore wrists (they were actually bleeding), a mark on her buttocks, a broken nail and a bruise on her leg, among other injuries. Ms. Eckhart's counsel shared this information with Fox News.

187. Ms. Eckhart's counsel also shared with Fox News the existence of certain text messages that establish Mr. Henry's delusions and prove his violence and the non-consensual nature of their relationship.

188. On July 1, 2020, Fox News disclosed to the public that it had terminated Mr. Henry based on the findings of an internal investigation, and purported to take credit for acting appropriately.

189. Fox News' press release announcing the termination of Mr. Henry was completely disingenuous, and intentionally downplayed the severity of the situation by characterizing Mr. Henry's actions as merely "sexual misconduct." Fox News was trying to avoid taking accountability for what *actually* happened; namely, that one of its most prominent on-air personalities – with a history of multiple sexual harassment complaints – sexually assaulted and raped Ms. Eckhart.

190. Moreover, Fox News did not even have the courtesy to notify Ms. Eckhart or her legal counsel of the fact that it would be terminating Mr. Henry from his prominent anchor

position. Thus, she was left to learn of this decision from the media, Twitter and former work colleagues. Fox News also sent an internal memo to thousands of Fox News employees, including all of Ms. Eckhart's friends and former colleagues at the Company, about the decision to terminate Mr. Henry without consulting with or notifying Ms. Eckhart. This conduct on the part of Fox News is abhorrent, and, of course, only served to greatly increase the severe emotional trauma and post-traumatic stress that Ms. Eckhart is experiencing as a result of coming forward so publicly against her abuser and former employer.

191. In fact, due to Fox News' retaliatory actions and complete mishandling of the situation, Ms. Eckhart has had to seek weekly therapy from a trauma specialist at a Crime Victims Treatment Center in New York City.

192. While Fox News attempted to "take credit" for terminating Mr. Henry, their decision was not only "too little too late," but was done only because Ms. Eckhart, whom the Company had already retaliated against, engaged in protected activity by retaining counsel, reporting that she had been sexually harassed, assaulted and raped by Mr. Henry, and indicated her intention to commence litigation.

193. However, the retaliation against Ms. Eckhart did not stop there.

194. On August 7, 2020, Fox News served a motion for Fed. R. Civ. P. 11 sanctions ("Rule 11 Motion") upon Ms. Eckhart's counsel. Although the Rule 11 Motion purported to be aimed at Ms. Areu and Wigdor LLP, Fox News took the opportunity to retaliate against Ms. Eckhart by: (i) asserting that Ms. Areu was used as part of a conspiracy to extort Fox News and obtain a settlement for the benefit of Ms. Eckhart, thereby implying, if not outright stating, that Ms. Eckhart attempted to extort Fox News; and (ii) including within the motion a completely misleading reference to settlement communications between Fox News and Wigdor LLP in order

to paint Ms. Eckhart out to be a greedy extortionist rather than a victim of sexual harassment, assault and rape.

195. Fox News knew that the Rule 11 Motion was frivolous and legally untenable, but nonetheless served it upon counsel to intimidate, harass and retaliate against Ms. Eckhart and Ms. Areu, as well as their counsel.

196. Then, on September 29, 2020, Fox News filed the Rule 11 Motion, again, to further harass and retaliate against Ms. Eckhart and Ms. Areu, as well as their counsel.

197. As if these actions by Fox News did not cause enough emotional distress, harm and public humiliation, on October 19, 2020, Mr. Henry filed a motion to dismiss Ms. Eckhart's claims to which he annexed various photographs allegedly depicting Ms. Eckhart in a nude or partially nude state.

198. In short, Mr. Henry often forcefully demanded that Ms. Eckhart send him photographs of herself for his own sexual gratification. Ms. Eckhart sometimes obliged, both to avoid retaliation and in the hopes that he would leave her alone if she sent a photograph. Due to Mr. Henry's incessant demands of Ms. Eckhart, she sometimes sent Mr. Henry photographs of other women that she found on the Internet because she was extremely uncomfortable sending such intimate photographs of herself. Thus, five of the photographs attached to Mr. Henry's widely inappropriate motion are not even of Ms. Eckhart, a fact that Mr. Henry likely knew when he submitted them to intentionally mislead the Court. It was therefore clear that Mr. Henry was motivated by the desire to publicly harm and humiliate Ms. Eckhart by falsely claiming that she sent him certain graphic pictures.

199. However, the remaining images were highly sensitive photographs that Ms. Eckhart had an understandable interest in keeping private. Moreover, the Court determined that they “should not have been filed” in connection with Mr. Henry’s motion to dismiss.

200. Mr. Henry and his legal team also included Ms. Eckhart’s personal cell phone number in two other exhibits that were filed publicly with the Court, thereby “doxing” her, a common tactic employed by sexual harassers online.

201. Mr. Henry’s conduct in this regard was vile and simply abhorrent, as rape can never be “justified” or “excused.”

202. Clinical psychologist Chloe Carmichael provided a quote to The Daily Beast about Mr. Henry’s tactic to release such explicit photos of Ms. Eckhart stating, “It could feel like a re-enactment of the original trauma for an alleged victim to have compromising photographs wallpapered on the Internet by the accused rapist. It could make the alleged victim feel like the alleged attacker has the power to humiliate her over and over again in a public format. Having those images plastered all over the Internet by her attacker or agents of the attacker could trigger a re-living of the experience of losing control over her own body.” *See* <https://www.thedailybeast.com/ex-fox-news-anchor-ed-henry-accused-of-pushing-revenge-porn-in-retaliation-for-sexual-assault-claim>.

203. As “revenge porn” expert Carrie Goldberg, Esq. explained: “The decision to consensually share an image does not impeach a person’s credibility about nonconsensual sex. Being a recipient of a sexy image is not an invitation nor does it entitle a person to commit an assault. This type of attempted slut-shaming and weaponization of lawsuits makes rape victims think that they – and their allegations – will be seen as less credible because at some point there existed photos of them wearing underwear. The legal strategy here is baffling.” *See*

<https://www.thedailybeast.com/ex-fox-news-anchor-ed-henry-accused-of-pushing-revenge-porn-in-retaliation-for-sexual-assault-claim>.

204. TIME’S UP Foundation official Latifa Lyles told The Daily Beast: “Degrading tactics have been used to intimidate or coerce victims into silence for generations, and we are not going to just let that happen anymore... I imagine Ed Henry’s team is aware of one of the most toxic myths about rape: that a victim would never send friendly or flirtatious messages or photos to a perpetrator. This is a line of defense that perpetrators have used for generations – that survivors somehow ‘asked for it.’ Well that just couldn’t be further from the real-world experiences of survivors. Because most perpetrators of sexual violence are known to their victims, ongoing contact is not uncommon, especially when the abuser or harasser has power over their victim’s career.” See <https://www.thedailybeast.com/ex-fox-news-anchor-ed-henry-accused-of-pushing-revenge-porn-in-retaliation-for-sexual-assault-claim>.

205. Indeed, many women never face or speak out against their abusers for fear of retaliation and being “victim shamed” as Ms. Eckhart was.

206. Moreover, upon information and belief, Fox News was aware of and ratified the retaliatory decision to file these highly sensitive photographs. Indeed, it has now become a common practice for Fox News employees purportedly terminated for wrongdoing, like Mr. Henry, to retain Catherine Foti, Esq. and engage in retaliatory litigation in cases in which Fox News is a co-defendant.

207. Specifically, as alleged in the matter of *Brown, et al. v. Fox News Network, LLC, et al.*, Index No: 22446/2017E:

As described herein, [p]laintiffs and other dark-skinned employees suffered years-long relentless racial animus at the hands of their white supervisor, Slater, an eighteen-year employee and former Senior Vice President (“SVP”) of Accounting and Controller of Fox

[News]. Despite being well aware of Slater's racist conduct, executives at Fox [News] did nothing to put an end to it and intentionally turned a blind eye. For years, Fox [News] permitted Slater to subject [p]laintiffs and other dark-skinned employees to a racially hostile work environment without fear of punishment or reprisal, and refused to terminate Slater for her conduct or, upon information and belief, even reprimand her in anyway.

That all changed last week, when [p]laintiffs' attorneys, Wigdor LLP, put [Fox News] on notice that [p]laintiffs would not capitulate to Fox [News'] demands and would be filing this lawsuit. Fox [News'] public relations machine went into full gear. In an effort to get out ahead of this lawsuit and pretend to care about the discriminatory conduct committed against [p]laintiffs, upon information and belief, Fox [News] leaked some of the allegations contained herein to the press. The leak was on a Friday, a day notoriously used to bury stories. Fox [News] terminated Slater as well.

To be clear, Ms. Slater was not terminated because she engaged in discriminatory conduct – Fox [News] was willing to let her get away with that for years. Rather, Slater was terminated because Fox [News] knew this would become a public matter and wanted to salvage its reputation.

*Id.*, Dkt. No. 1 at ¶¶ 1-3.

208. Ms. Slater ultimately retained Ms. Foti to represent her. When Ms. Foti filed Ms. Slater's answer, rather than simply admitting or denying the allegations in the complaint in that action, Ms. Foti included a 19-page preliminary statement in which she: (i) accused the plaintiffs and Wigdor LLP of extortion; and (ii) presented allegations concerning cherry-picked purported "evidence" to make the plaintiffs look like liars because they were at times friendly with their harasser. *Id.*, Dkt. No. 152 at pp. 1-19.

209. Upon information and belief, Fox News steered both Ms. Slater and Mr. Henry to Ms. Foti and, in both cases, worked with Ms. Foti to prepare harassing and retaliatory litigation to paint the plaintiffs (in this case, Ms. Eckhart) out to be liars and extortionists by exposing them to victim blaming and, in Ms. Eckhart's case, "victim shaming."

210. The claim that Fox News intended to subject Ms. Eckhart to retaliation is further supported by their choice of counsel in this action. Proskauer Rose LLP (“Proskauer”) generally, and its partners Ms. McKenna and Mr. Chinn (both of whom have appeared in this action), specifically, have a history of filing retaliatory litigation, including preemptive retaliatory actions, retaliatory counterclaims and retaliatory Rule 11 motions.<sup>4</sup> Several of these retaliatory actions have been taken against Wigdor LLP and its clients. It is inconceivable that Fox News did not know this when it retained Proskauer.

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<sup>4</sup> See, e.g., *Bertram v. Proskauer Rose LLP*, No. 17 Civ. 00901 (ABJ) (D.D.C., 2017) (Partner Connie Bertram alleged that she was subjected to gender discrimination and that she was retaliated against by Proskauer after making complaints and retaining counsel, whose defense team was led by Ms. McKenna. The retaliation included threats of termination.); *Campbell v. Chadbourne & Parke LLP*, No. 16 Civ. 6832 (JPO), 2017 WL 2589389, at \*1 (S.D.N.Y. June 14, 2017) (Proskauer client represented by Ms. McKenna asserted a counterclaim for a purported breach of fiduciary duty against a gender discrimination claimant); *Baskett v. Autonomous Research LLP, et al.*, No. 17 Civ. 9237 (VSB) (S.D.N.Y.) (Proskauer client represented by Mr. Chinn filed motion for sanctions against a gender discrimination and Sarbanes-Oxley Act whistleblower employee plaintiff for utilizing company documents in opposition to a pre-discovery motion for summary judgment (the documents demonstrated that the motion and some of the representations underlying it were meritless). Both motions by the defendant employer were denied.); *Keller v. Loews Corp.*, 69 A.D.3d 451, 451 (1st Dep’t 2010) (Proskauer client asserted a counterclaim for a purported breach of fiduciary duty against a religious disability discrimination Claimant); *Tapestry, Inc. v. Gibb*, Index No. 653042/2018 (N.Y. Sup. Ct.) (Within three weeks after a multi-year employee of Stuart Weitzman filed a sexual harassment lawsuit, the company, represented by Proskauer, responded by firing him without notice and filing suit against him – for a purported breach of contract – through which it sought to claw back all of the compensation it had paid to him as an employee.); *McLaughlin v. Macquarie Capital (USA) Inc.*, No. 17 Civ. 9023 (RA) (S.D.N.Y.) (Proskauer client responded to a discrimination lawsuit by filing a declaratory judgment action against the claimant in AAA (seeking a determination that it had not discriminated against the claimant)); *Brown Jordan Int’l, Inc. v. Carmicle*, No. 14 Civ. 60629, 2015 WL 11660246, at \*4 (S.D. Fla. June 3, 2015) (Proskauer client commenced litigation against a former employee for purportedly making unauthorized disclosures of confidential information); *U.S. ex rel. Cieszynsky v. Lifewatch Servs., Inc.*, No. 13 Civ. 4052 (SIS), 2016 WL 2771798, at \*1 (N.D. Ill. May 13, 2016) (Proskauer client filed a counterclaim against a whistleblower claimant for purportedly misappropriating its confidential information by disclosing it to the government in connection with his whistleblowing activities.); *Miller v. Blattner*, 676 F. Supp. 2d 485, 489 (E.D. La. 2009) (“Proskauer client asserted counterclaims against a claimant who alleged he was not paid a portion of his bonus.”); *Robert Reiser & Co. v. Scriven*, 130 F. Supp. 3d 488, 491 (D. Mass. 2015) (Proskauer client filed a preemptive action against an employee who asserted claims for retaliation and violations of wage and hour laws.); *National Academy of Recording Arts & Sciences, Inc. v. Deborah Dugan*; AAA No. 01-20-0000-3932 (Proskauer client filed a statement of claim with the American Arbitration Association against its former president and CEO less than two weeks after she filed her Charge of Discrimination with the EEOC regarding, *inter alia*, sexual harassment, her complaints of the Recording Academy’s lack of diversity and her efforts to promote and advance diversity initiatives, unequal and discriminatory pay that was substantially less than her male predecessors, corruption in the Recording Academy’s award nomination process and retaliation to which she was subjected for engaging in protected activity.).



**FIRST CAUSE OF ACTION**  
**(Sex Trafficking under 18 U.S.C. § 1591, *et seq.*)**  
***Against Defendants Fox News and Ed Henry***

211. Ms. Eckhart repeats and realleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

212. Defendant Henry enticed women, including Ms. Eckhart, to attend meetings and social gatherings with him based on the fraudulent promise that he would aid their career development.

213. The opportunity to have a private meeting with Mr. Henry to discuss career development carries value because such opportunities can be career-altering and therefore life-changing.

214. Mr. Henry enticed Plaintiff to his hotel room based on the false pretense that he would discuss and aid her career progression at Fox News.

215. Mr. Henry enticed Plaintiff to his hotel room knowing that force or threats of force would be used to cause Ms. Eckhart to engage in an unwilling sex act.

216. Mr. Henry engaged in sexual acts with Plaintiff in his hotel room without her consent.

217. Mr. Henry and Fox News formed a venture as defined by 18 U.S.C. § 1591 given that they constituted a “group of two or more individuals associated in fact, whether or not a legal entity.”

218. Fox News benefited from participation in the venture because Fox News received value from Mr. Henry’s services and benefited financially from his continued employment.

219. Fox News knew that Mr. Henry engaged in a pattern and practice of sexual misconduct with women, including female employees, prior to the time that he raped Ms. Eckhart.

220. Fox News participated in Mr. Henry's sexual misconduct by knowingly assisting and facilitating Mr. Henry with the resources and authority to engage in sexual misconduct and by helping to "clean up after" and "cover up" the sexual misconduct, including by failing to investigate legitimate claims of sexual misconduct and refusing to remediate or take action against Mr. Henry upon learning of Mr. Henry's sexual misconduct.

221. Fox News also paid for Mr. Henry's interstate travel and the premises where the sexual assault was committed.

222. Had Fox News terminated Mr. Henry upon learning of his sexual misconduct, it would have suffered significant financial harm, and Ms. Eckhart would not have been raped.

223. Fox News benefited from its involvement in the venture because it allowed Mr. Henry to continue to appear on Fox News and anchor some of its most highly-rated programs, which monetarily benefited Fox News as the network continued to make money.

224. As a direct and proximate result of Fox News' and Ed Henry's unlawful conduct as alleged hereinabove, Plaintiff has suffered physical injury, severe emotional distress and anxiety, humiliation, embarrassment, post-traumatic stress disorder, economic harm and other consequential damages.

225. Plaintiff also seeks reasonable attorneys' fees as provided under 18 U.S.C. § 1595(a).

**SECOND CAUSE OF ACTION**  
**(Hostile Work Environment, Sexual Harassment and Gender  
Discrimination under Title VII of the Civil Rights Act of 1964)**  
***Against Defendant Fox News***

226. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully within.

227. Defendant Fox News has discriminated against Plaintiff on the basis of her gender in violation to Title VII by subjecting her to disparate treatment based upon her gender, including, but not limited to, subjecting her to sexual harassment and assault, rape and a hostile work environment. As a result, Plaintiff was denied the opportunity to work in an employment environment free of unlawful discrimination.

228. These actions are in direct violation of Title VII of the Civil Rights Act of 1964, as amended.

229. As a direct and proximate result of Defendant Fox News' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

230. As a direct and proximate result of Defendant Fox News' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

231. Defendant Fox News' unlawful discriminatory and wrongful conduct constitutes a willful and wanton violation of Title VII, was outrageous and malicious, and was intended to injure Plaintiff and was committed with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

**THIRD CAUSE OF ACTION**  
**(Retaliation under Title VII of the Civil Rights Act of 1964)**  
***Against Defendant Fox News***

232. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

233. Defendant Fox News has retaliated against Plaintiff because she engaged in protected activity as defined by Title VII of the Civil Rights Act by, *inter alia*, terminating her employment and subjecting her to post-termination harassment and trauma.

234. As a direct and proximate result of Defendant Fox News' unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

235. As a direct and proximate result of Defendant Fox News' unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and post-traumatic stress for which she is entitled to an award of monetary damages and other relief.

236. Defendant Fox News' unlawful discriminatory and wrongful conduct constitutes a willful and wanton violation of Title VII, was outrageous, malicious and cruel, was intended to injure Plaintiff and was committed with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

**FOURTH CAUSE OF ACTION**  
**(Hostile Work Environment, Sexual Harassment and Gender**  
**Discrimination under the NYSHRL)**  
***Against Defendants Fox News and Ed Henry***

237. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

238. Defendants have discriminated against Plaintiff on the basis of her gender in violation of the NYSHRL by subjecting Plaintiff to disparate treatment based upon her gender, including, but not limited to, subjecting her to sexual assault and/or harassment, rape and a hostile work environment.

239. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

240. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

241. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages.

**FIFTH CAUSE OF ACTION**  
**(Retaliation under the NYSHRL)**  
***Against Defendants Fox News and Ed Henry***

242. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

243. Defendants have retaliated against Plaintiff because she engaged in protected activity as defined by the NYSHRL by, *inter alia*, terminating her employment and subjecting her to post-termination harassment and trauma.

244. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

245. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

246. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages.

**SIXTH CAUSE OF ACTION**  
**(Aiding and Abetting in Violation of the NYSHRL)**  
***Against Defendant Ed Henry***

247. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

248. Defendant Henry knowingly and maliciously aided and abetted the employment practices, discrimination and retaliation, as described herein, committed against Plaintiff in violation of the NYSHRL.

249. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

250. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and post-traumatic stress for which she is entitled to an award of monetary damages and other relief.

251. Defendant Henry's unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages.

**SEVENTH CAUSE OF ACTION**  
**(Hostile Work Environment, Sexual Harassment and Gender**  
**Discrimination under the NYCHRL)**  
***Against Defendants Fox News and Ed Henry***

252. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

253. Defendants have discriminated against Plaintiff on the basis of her gender in violation of the NYCHRL by subjecting Plaintiff to disparate treatment based upon her gender, including, but not limited to, subjecting her to sexual assault and/or harassment, rape and a hostile work environment.

254. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

255. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

256. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

**EIGHTH CAUSE OF ACTION**  
**(Retaliation under the NYCHRL)**  
***Against Defendants Fox News and Ed Henry***

257. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

258. Defendants have retaliated against Plaintiff because she engaged in protected activity as defined by the NYCHRL by, *inter alia*, terminating her employment and subjecting her to post-termination harassment and trauma.

259. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

260. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

261. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

**NINTH CAUSE OF ACTION**  
**(Aiding and Abetting in Violation of the NYCHRL)**  
***Against Defendant Ed Henry***

262. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.



263. Defendant Henry knowingly and maliciously aided and abetted the employment practices, discrimination and retaliation, as described herein, committed against Plaintiff in violation of the NYSHRL.

264. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

265. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

266. Defendant Henry's unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages.

**TENTH CAUSE OF ACTION**  
**(Gender-Motivated Violence Pursuant to GMVA)**  
***Against Defendant Ed Henry***

267. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

268. The above-described conduct of Mr. Henry, including, but not limited to, Mr. Henry's sexual assaults and rape of Plaintiff Eckhart, constitutes a "crime of violence" and a "crime of violence motivated by gender" against Plaintiff as defined by the New York City Gender Motivated Violence Act, N.Y.C. Admin. Code § 8-903 (2017).

269. The above-described conduct of Mr. Henry, including, but not limited to, Mr. Henry's sexual assaults and rape of Plaintiff, constitutes a "crime of violence" against Plaintiff

motivated: (i) by her gender; (ii) on the basis of her gender; and/or (iii) due, at least in part, to an animus based on her gender.

270. Mr. Henry committed a “crime of violence” against Plaintiff because she is a woman and, at least in part, because he has an unlawful animus towards women. Mr. Henry’s gender-motivated animus towards women is demonstrated by, among other things, his sexually violent and abusive treatment of women.

271. As a direct and proximate result of the aforementioned gender-motivated violence, Plaintiff has sustained in the past and will continue to sustain, monetary damages, physical injury, pain and suffering, and serious psychological and emotional distress, entitling her to an award of compensatory damages.

272. Mr. Henry’s gender-motivated violence against Plaintiff entitles her to punitive damages and an award of attorneys’ fees and costs.

**ELEVENTH CAUSE OF ACTION**  
**(Violations of CRL § 52-b)**  
***Against Defendants Fox News and Ed Henry***

273. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

274. Defendants, acting together, caused and allowed such compromising and violating photographs at Dkt. No. 85, Exhibits G, H, J, K, L, N, O, P, R and S to be published without Ms. Eckhart’s consent. These photographs, which were taken when Ms. Eckhart had a reasonable expectation that the images would remain private, depict Ms. Eckhart’s unclothed or exposed intimate body parts.

275. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish, post-traumatic stress and other emotional distress for which she is entitled to an award of monetary damages and other relief.

276. Defendants' violations of CRL § 52-b were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the CRL § 52-b for which Plaintiff is entitled to an award of punitive damages.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that the Court enter judgment in her favor and against Defendants, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the United States, the State of New York and the City of New York;

B. An injunction and order permanently restraining Defendants and their partners, officers, owners, agents, successors, employees and/or representatives, and any and all persons acting in concert with them, from engaging in any such further unlawful conduct, including the policies and practices complained of herein;

C. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including, but not limited to, loss of past and future income, wages, compensation, seniority and other benefits of employment;

D. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate

Plaintiff for all non-monetary and/or compensatory damages, including, but not limited to, compensation for her emotional distress;

E. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff, including, but not limited to, loss of income, earned bonus pay, reputational harm and harm to professional reputation, in an amount to be determined at trial, plus prejudgment interest;

F. An award of punitive damages, and any applicable penalties and/or liquidated damages in an amount to be determined at trial;

G. Prejudgment interest on all amounts due;

H. An award of costs that Plaintiff has incurred in this action, including, but not limited to, expert witness fees, as well as Plaintiff's reasonable attorneys' fees and costs to the fullest extent permitted by law; and

I. Such other and further relief as the Court may deem just and proper.

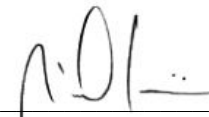
**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: November 9, 2020  
New York, New York

Respectfully submitted,

**WIGDOR LLP**

By:   
\_\_\_\_\_  
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*Attorneys for Plaintiff*